

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BARRY TODD EBLEN,

Defendant.

CR 03-122-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on January 3, 2018. Defendant admitted that he had violated the conditions of his supervised release: 1) by failing to report to the United States Probation Office as directed and 2) by consuming alcohol. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of time served, with no supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir.

1981).

This Court agrees with Judge Johnston's findings and recommendations. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 36 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of five to eleven months. A custodial sentence of time served, followed by no supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 30) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 23rd day of January, 2018.



Brian Morris
United States District Court Judge